March 21, 2025

Liane M. Randolph
Chair, California Air Resources Board
1001 I Street, Sacramento, CA 95814

Re: California Climate Disclosure (SB 253 & SB 261) Information Solicitation

Dear Ms. Randolph,

On behalf of the International Dairy Foods Association (IDFA), I respectfully submit these comments regarding the California Air Resources Board's (CARB) implementation process of the state's climate-related disclosure laws, SB 253 and SB 261. Our industry takes climate-related risks and reporting seriously and has already voluntarily established ambitious climate-related commitments without state or federal regulatory measures. The dairy industry is collectively committed to achieving greenhouse gas (GHG) neutrality by 2050.[1] In addition, a growing number of IDFA members, at least 27 to date, are committing to the Science Based Targets Initiative (SBTi). And many dairy companies already report GHG emissions through CDP, with at least six IDFA members rated as 2023 *A-Listers*.[2]

IDFA prepared these comments to help CARB ensure that program implementation is both impactful and workable for all affected dairy businesses, including farming operations. To this end, IDFA would like to emphasize the following points:

- **Our processor members can offer expert guidance to CARB**. Many of our companies already perform GHG accounting and prepare climate-related disclosures.

- **Compliant disclosures for other jurisdictions should be acceptable for California.** Respecting company discretion about report design will minimize the administrative burden of duplicative report preparation while also acknowledging varying degrees of supply chain complexity and the uncertainty surrounding GHG Protocol standards, which are expected to be under revision into 2028.[3] As one member company has stated, "the burden of developing slightly different disclosures for each market is overly onerous for little incremental benefit."

- **An extended enforcement discretion notice should be developed to assure reporting entities concerned about regulatory liability associated with good faith climate-related disclosures in initial reporting periods for both SB 253 scope 3 and SB 261 requirements.** IDFA is grateful for the recently announced enforcement discretion for scope 1 and 2 reporting.[4] On behalf of our members, we recommend that CARB extend this enforcement discretion to address third-party data risks in scope 3 reports and certain future-looking statements, risk mitigation strategies, or hypotheticals that may be included in SB 261 disclosures.

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[1] https://www.usdairy.com/about-us/innovation-center/stewardship-commitment
[2] https://www.cdp.net/en/data/scores
[3] https://ghgprotocol.org/blog/2024-reflections-and-looking-ahead-letter-ghg-protocol-steering-committee-chair-and-vice-chair (update shared on January 16, 2025).
[4] The Climate Corporate Data Accountability Act Enforcement Notice Dec 2024

WHO IDFA REPRESENTS

The International Dairy Foods Association (IDFA), Washington, D.C., represents the nation's dairy manufacturing and marketing industry, which supports more than 3.2 million jobs that generate $49 billion in direct wages and $794 billion in overall economic impact. IDFA's diverse membership ranges from multinational organizations to single-plant companies, from dairy companies and cooperatives to food retailers and suppliers, all on the forefront of innovation and sustainable business practices.

As you may know, California is the top milk-producing state by volume, and dairy is the state's top agricultural commodity sector by value. IDFA has at least 30 members headquartered in California, and our industry directly supports over 108,000 jobs while generating over $28 billion in direct economic impact in this one state.[5]

Together, IDFA members represent most of the milk, cheese, ice cream, yogurt and cultured products, and dairy ingredients produced and marketed in the United States and sold throughout the world. Delicious, safe, and nutritious dairy foods offer unparalleled health and consumer benefits to people of all ages.

We know that many IDFA companies will need to comply with SB 253's emissions disclosure mandates, and many more companies will need to comply with SB 261's climate-related financial risk disclosures. These companies will need to collaborate with and request information from multiple business partners, many of which are not regulated reporting entities, to estimate relevant emissions and risks. In the case of GHG emissions, we know that our processors' scope 3 footprints are typically up to 90% outside their direct control, mostly at the farm level.[6] IDFA asks CARB to critically evaluate the burden being placed on our members to verify upstream emissions data. IDFA shared this same concern about unregulated business entities in similar comments to the U.S. Securities and Exchange Commission (SEC), which ultimately did not follow through with scope 3 disclosure requirements.

As detailed above, IDFA's constituents are very engaged in the climate-related corporate disclosure space. In our most recent (2023) member survey, 60% of responding dairy companies list GHG emissions reduction in the top three priority sustainability issues, and 64% of responding members are already measuring at least scope 1 and 2 emissions. That number drops significantly for companies prepared to report scope 3 emissions. These members are also actively engaged in several industry working groups and committees addressing real-world GHG accounting challenges and filling gaps in the existing GHG Protocol technical guidance.

IDFA recommends that CARB utilize the stakeholder consultation provision in SB 253 (section 2, subdivision c, part 4) to engage our dairy processing community. IDFA would like to facilitate meetings between CARB and future reporting entities, some of which are quite mature in their ESG disclosure knowledge and capabilities. Our members can share real world challenges that give them reservations about disclosing scope 3 emissions estimates, such as farm carbon foot-printing inadequacies and the traceability of GHG interventions through processing steps.

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[5] See IDFA's *Dairy Delivers* economic reporting: https://www.idfa.org/dairydelivers.
[6] See: https://doi.org/10.1016/j.envc.2023.100719.

KEY RECOMMENDATIONS

IDFA submits the following recommendations for CARB's consideration as it develops rules for implementing SB 253 and SB 261:

1. **To minimize costs for CARB, reporting entities, and their supply chains, IDFA urges CARB to accept equivalent disclosures from preexisting voluntary and regulatory programs.** Climate-related disclosures are resource and administratively costly. Two IDFA member companies have communicated that preparation for mandated GHG reporting has cost or is forecasted to exceed $300,000 in direct costs and requires multiple full time equivalent (FTE) hires along with significant management involvement and oversight (additional cost estimates are provided in response to **question #4** below). A large share of the compliance cost burden will be from contracting audit/assurance services.

   At this time, IDFA has identified at least four other U.S. states that are considering carbon disclosure requirements similar to California's forthcoming program. Additionally, our members may now or in the future be required to prepare similar disclosures for global regulatory requirements within the European Union, New Zealand, Australia, the United Kingdom, Japan, etc. It is important to our members that CARB's program requirements are aligned with appropriate international standards and frameworks to avoid duplicative report preparation exercises. CARB should also address and make clear how reporting should be prepared for parent-subsidiary corporate structures. The parent company report should be accepted even if that entity is not the entity deemed "doing business in" California. These recommendations are important for a successful reporting program that minimizes administrative burden for all parties.

2. **CARB should be mindful of setting rules that may create confusion once prevailing international standards are updated in the coming years.** International climate-related financial risk and GHG accounting and reporting standards continue to evolve. The GHG Protocol suite of corporate standards and the Science Based Target initiative (SBTi) Corporate Net-Zero Standard are both in revision periods through at least 2026, which is expected to affect how reporting entities manage scope 1, 2, and 3 reporting.[7]

   Additionally, Task Force on Climate-Related Financial Disclosures' (TCFD) governance only recently shifted to the International Financial Reporting Standards Foundation (IFRS).[8] With disclosure recommendations being incorporated into the International Sustainability Standards Board's (ISSB) standards, changes may occur that impact SB 261 disclosures.

3. **Under SB 253, IDFA requests that CARB accept accounting reports that provide a full picture of calculation assumptions and emissions flows resulting from appropriate market-based instrument transactions.** The dairy supply chain, especially in California, engages in environmental attribute certificate (e.g., carbon credit) transactions to help finance verifiable GHG mitigation projects. This includes the market-based compliance mechanism implemented by CARB under California's LCFS program. Our recommendation is supported by the fact that market-based

[7] As a demonstration of the extent to which existing standards lack clarity and how guidance documents may change to address stakeholder concerns, the March 2023 GHG Protocol stakeholder survey process received over 1,400 responses, which may be accessed here: https://ghgprotocol.org/survey-need-ghg-protocol-corporate-standards-and-guidance-updates.

[8] IFRS - IFRS Foundation publishes comparison of IFRS S2 with the TCFD Recommendations.

instrument accounting procedures are still being addressed by international standard setting bodies, including GHG Protocol. Final standards related to market-based instruments may not be published until 2028.[9] Flexibility should be afforded to reporting entities at least until the voluntary standards that SB 253 refers to (GHG Protocol) demonstrate more clarity on this important topic.

Our research indicates that the CARB-approved manure-to-renewable natural gas (RNG) LCFS pathway utilizes an adapted *GREET* lifecycle assessment (LCA) model specific to transportation fuels, and LCFS guidelines prohibit the utilization of a credit's environmental attributes in other regulatory or voluntary programs (with the exception of the federal renewable fuel standard, RFS, program). The dairy value chain's ongoing commodity purchases are associated with the generation of a valuable by-product (i.e., manure feedstock) that ultimately may be used to generate LCFS credits. This leads us to believe that scope 3 reporting by our members for SB 253 should reflect the emissions benefit of the advanced manure management via anaerobic digestion—but not the emissions benefit of the RNG relative to conventional fossil-derived natural gas—in cases where a digestion system in the supply chain is generating LCFS credits for sale. We see this as a necessary decoupling of variables included in the carbon intensity (CI) score for the LCFS pathway, which should facilitate appropriate value chain emissions reporting under SB 253 for both dairy and RNG supply chains.

In summary, our industry's milk purchases are inherently connected to the manure feedstock associated with LCFS compliance credits and the emissions factor of raw milk leaving a farm should carry the benefit of the manure management practice for scope 3 reporting purposes, regardless of a policy-driven credit program.

It is well-known that scope 3 reporting involves overlap between business entities along supply chains.[10] In this case, since LCFS credits are utilized for the sole purpose of compliance with CARB's LCFS program, we do not believe any corporate GHG balance sheet today is currently reflecting the credit purchases/sales. IDFA believes the result of our requested reporting allowance would be an acceptable scope 3 emission reporting overlap between corporate GHG inventories along the dairy value chain and a political jurisdiction, specifically the state of California's LCFS program or transportation inventory. To address this topic, we recommend that CARB develops a Frequently Asked Question (FAQ).[11] Specifically, CARB should address whether LCFS credit purchasers are permitted to apply credits in their SB 253 corporate disclosures.

The GHG Protocol's intention for a corporate inventory is to provide stakeholders with the most accurate estimate of GHG emissions for a given reporting period. By acknowledging the overlap between LCA boundaries for raw milk and RNG, IDFA member companies can provide reports that best align with the GHG Protocol's intentions.

4. **IDFA recommends that CARB extends scope 1 and 2 enforcement discretion to cover at least the initial reporting cycle for <u>audited</u> scope 3 (i.e., the 2030 reporting cycle with limited assurance) and SB 261 statements.** The scope 3 (i.e., value chain) emissions accounting and

[9] 2024 Reflections and Looking Ahead: Letter from GHG Protocol Steering Committee Chair and Vice Chair | GHG Protocol. Recent activity related to GHG Protocol addressing this need is also found here, Standards Development and Governance Repository | GHG Protocol.
[10] https://trackingprogress.quantis.com/the-challenge-of-double-counting/
[11] As found here, LCFS Guidance Documents, User Guides, and FAQs | California Air Resources Board.

reporting space is challenging and relatively immature. Related best practices are still developing. Accurate scope 3 accounting involves retrieving data from unregulated trading partners and farmers. As a result, IDFA member companies will be somewhat reliant on data conveyed from unregulated businesses, which presents significant third-party data quality risks. Additionally, some climate-related financial risk statements will be estimates and/or based on hypothetical scenarios.

To address these risks, IDFA urges CARB to provide reporting entities with additional assurance that no action will be taken for unknown inaccuracies (especially in scope 3 data) in SB 253 GHG reporting, nor for certain forward-looking statements (e.g., mitigation strategies) that may arise in SB 261 disclosure preparation, at least in the initial reporting cycle for each disclosure type with third-party assurance engagement requirements. This extended enforcement discretion, akin to what was announced in December 2024 for scope 1 and 2 reporting, would further acknowledge that many reporting entities will be preparing climate-related disclosures for the first time. This could provide a learning period for first time reporters and allow for corrections (without penalties) if compliant disclosures are deemed "inadequate or insufficient" as stated by SB 261.

Additionally, IDFA suggests that CARB should maintain the "limited" level of required assurance (slated to begin in 2030) for SB 253 scope 3 reporting. Following the assurance trends review described in SB 253 (section 2(c), part F(iii)), the State Board should <u>not</u> stipulate any additional scope 3 assurance requirements for the 2027 to 2030 reporting periods.

PROPOSAL FOR DUAL LEDGER SB 253 REPORTING OPTION

IDFA proposes that CARB permit reporting entities to deliver disclosures designed to best represent their actual emissions profiles. This may include the currently accepted practice of single value reporting (i.e., reporting summary metrics) for scopes 1, 2, and 3. However, as an alternative option, companies could design and submit a fully detailed, highly transparent accounting summary of their best estimate of operational emissions for a given reporting period (e.g., fiscal year) that features two summary values per scope.

This *dual accounting* approach would disclose the companies "actual" emissions based on assessment of physical conditions (e.g., operations, purchased goods, and GHG reduction projects) alongside an "adjusted" emissions value. The adjusted value would amend the actual emissions to reflect any known carbon transactions, such as carbon credit trades. For instance, if a company has purchased carbon offset credits, they would effectively lower the actual emissions, and if the company knows of carbon credits being sold from the value chain, the actual emissions value would increase accordingly. We believe that providing such a detailed "balance sheet" style report aligns with existing GHG Protocol principles and best practices. IDFA suggests that CARB experts consider the *Holcim* reporting case study described within the GHG Protocol Corporate Accounting and Reporting Standard (pg. 84).

The U.S. dairy sector has thoroughly investigated and built consensus around this type of transparent reporting. The approach is necessary to overcome key challenges that are directly tied to the unique complexity of dairy production. For instance, the highly effective anaerobic manure digester systems that our sector leverages for advanced manure management come at a high cost. The LCFS marketplace has been instrumental in making these climate-smart systems possible, but the associated credit transactions have resulted in a patchwork of interpretations about emissions benefit ownership and reporting rights.

Calculating the carbon profile of dairy products along supply chains is also extremely difficult due to the reality that milk is pooled early in the value chain. Our industry then disaggregates milk into its component parts (e.g., fat and protein), and balances those components according to demand. Finally, the milk's components are transformed into nutritious, value-added dairy foods and beverages.

The dual accounting option can help our sector comply with SB 253 in a highly transparent manner while overcoming some challenges of this complex value chain GHG accounting. This approach should prevent "double counting of allowances traded in external programs," as discussed in the GHG Protocol Corporate Standard (pg. 83). Importantly, this approach will also facilitate more investment in emissions abatement interventions along our supply chains. **In summary, up to approximately 90% of a dairy processing company's GHG profile may be from operations outside of their direct control. The dairy industry, which contributes significantly to the Californian economy, needs ample flexibility if scope 3 disclosures are mandatory.**

RESPONSES TO SELECT CARB QUESTIONS

IDFA has consulted sustainability leaders at our member companies to develop feedback for CARB on the specific questions included in this solicitation for comments. We include select responses below.

***Question 1**: SB 253 and 261 both require an entity that "does business in California" to provide specified information to CARB. This terminology is not defined in the statutes.*

Responses:

1(a) – Regarding the phrase "does business in California," CARB needs to provide clarity. It is reasonable to defer to the interpretation of the existing Revenue and Tax Code.

1(b, c) – If the Revenue and Tax Code standard for "doing business" in California is adopted, CARB will need to determine if revenue-generating federal and state government entities and foreign government ownership meet the requirements of the selected tax code standard. It would seem reasonable that California's legislators intended for SB 253 and SB 261 to maximize transparency and information sharing about GHG emissions connected to large, revenue generating "business entities," agnostic of ownership structure.

IDFA also encourages CARB to clearly stipulate what exactly is considered "revenue" with regards to each law's respective revenue threshold. In doing so, CARB should provide clear guidance for determining whether the disclosure laws apply (i.e., "doing business in California" and "revenue") specifically for parent-subsidiary scenarios.

As written, SB 253 and SB 261 appear to apply to any companies *doing business in California* whose revenues exceed $1 billion or $500 million (USD), respectively. This appears to refer to revenues received anywhere (i.e., a global revenue value). This disregards the impact the company may actually have on the state of California. Because California tax and privacy laws already recognize revenue apportioned to California as the basis for compliance, this global revenue test lacks a valid nexus and could be deemed an overreach. There could be many situations of companies with low total revenue in California, but higher revenue elsewhere, which would currently meet the requirements to report. IDFA suggests working within the bounds of the law and with legislators to amend the program to apply only to companies meeting some yet to be determined revenue thresholds within California. One option may be for CARB to implement a

process of issuing exceptions if the company is able to demonstrate that a minor share of total revenue received is attributable to business in California.

Question 2*: What are your recommendations on a cost-effective manner to identify all businesses covered by the laws (i.e., that exceed the annual revenue thresholds in the statutes and do business in California)?*

Response:

2 – IDFA would recommend trusting companies to self-declare if they are a covered reporting entity according to prescribed revenue thresholds (at risk of financial penalties for business entities exceeding revenue thresholds and failing to disclose).

Question 3: *CARB is tasked with implementing both SB 253 and 261 in ways that would rely on protocols or standards published by external and potentially non-governmental entities.*

Responses:

3(a) – First, it is not clear what CARB should do to ensure California-specific needs are addressed since SB 253 and SB 261 are written such that <u>many</u> impacted businesses reside outside the state, revenue thresholds and emissions are <u>not</u> specific to the state, and atmospheric emissions are not confined to the state's borders. With that said, IDFA believes CARB could address state-specific and reporting entity needs by clarifying how to manage reporting when corporate GHG accounting for SB 253 compliance overlaps with any other California regulatory programs and/or GHG inventory systems, such as the state's transportation and agriculture sector emissions inventories.

Second, IDFA recommends that CARB <u>avoid</u> going beyond what is stipulated by SB 253 text to require any state-specific emissions reporting. Such reporting estimates would be fraught with flawed estimates for several reasons, including business-to-business (B2B) and distribution relationships where reporting entities may lose visibility to exactly how much volume is sold within California, improper revenue-based carbon footprint estimations, et cetera.

Third, it is reasonable for CARB to conduct a landscape review of existing climate-related standards and guidance documents on a regular cadence, as is currently described in SB 253 with regards to the GHG Protocol. IDFA recommends that CARB also consider surveying reporting entities about other voluntary standards they follow, as well as other programs or frameworks that require similar disclosures.

Please note that GHG Protocol standards are currently in a revision process and TCFD recommendations have recently shifted to be integrated into and governed by IFRS. This is additional evidence that CARB should not stipulate any California-specific disclosure requirements that go beyond what these international standards say, especially since standards may change in the coming years.

3(b) – To avoid undue administrative burden from duplicative disclosure preparation, IDFA suggests that CARB consult with the regulated business community to establish a list of existing reporting frameworks in the global marketplace—<u>both voluntary and regulatory</u>, e.g., CDP, the E.U. Corporate Sustainability Reporting Directive (CSRD), and the New Zealand Climate-related Disclosure (CRD).

From this exercise, CARB should be able to identify and endorse preexisting formats or approaches that reporting entities can use when preparing California's required disclosures under SB 253 and SB 261. **Companies should be able to turn in the same disclosures in most, if not all, political jurisdictions if the reporting adheres to referenced international standards.** IDFA recommends that CARB stipulates a

standard operating procedure for reporting entities to petition for exceptions or to request evaluation of new programs, frameworks, or standards that may develop in the future.

3(c) – Generally, reporting entities will not change their climate-related disclosure approach (and associated methodologies) without good reason, such as improved data, models, technology, significant supply chain changes, etc. There are preexisting norms pertaining to when GHG baseline calculations should be re-examined. Therefore, we strongly advise against CARB forcing a company to select and continuously utilize the same reporting method year-over-year. This may limit innovation and completely discount the reality that the GHG accounting standards and technology space is actively evolving. It should be left to each company to decide how to articulate methodological changes, re-baselining, and progress over time.

Question 4: *To inform CARB's regulatory processes, are there any public datasets that identify the costs for voluntary reporting already being submitted by companies? What factors affect the cost or anticipated cost for entities to comply with either legislation? What data should CARB rely on when assessing the fiscal impacts of either regulation?*

Response:

4 – IDFA is not aware of open data sources that disclose climate-related reporting costs incurred by private sector companies. Many of these costs are company specific and associated with confidential business transactions with consulting and auditing/assurance firms. However, after evaluating other climate-related disclosure policy measures and discussing with member companies, we know that preparing credible disclosures is very resource intense. The significant cost burden even impacts unregulated entities along supply chains, including farmers. Disclosure assurance (i.e., audit) requirements represent a sizable portion of these compliance costs.

IDFA recommends the following sources for compliance cost estimates associated with the now paused U.S. SEC climate rule and E.U. CSRD:

- Compliance cost estimates are not straightforward because of various sizes of impacted companies and multiple iterations of standards (e.g., European Sustainability Reporting Standards and the CSRD precursor, the Non-Financial Reporting Directive). However, the European Financial Reporting Advisory Group's (EFRAG) 2022 cost-benefit analysis for CSRD compliance estimates initial costs of about 287,000 Euros with ongoing annual costs over 300,000 Euros.[12]

- A 2024 report to the European Commission on E.U. competitiveness calls CSRD "a major source of regulatory burden" because of estimated compliance costs between 150,000 Euros (for non-listed companies) and one million Euros (for listed companies).[13]

- Analysis of the U.S. SEC proposed climate-related disclosure places potential initial year compliance costs between $490,000 and $640,000 depending on company type/size, with subsequent year costs ranging from $420,000 to $530,000.[14]

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[12] See EFRAG cost-benefit analysis report (November 2022): https://www.efrag.org/sites/default/files/sites/webpublishing/SiteAssets/05%20EFRAGs%20Cover%20Letter%20on%20the%20Cost-benefit%20analysis.pdf

[13] See: https://commission.europa.eu/topics/eu-competitiveness/draghi-report_en

[14] See: Proposed Rule: The Enhancement and Standardization of Climate-Related Disclosures for Investors

Question 5: *Should the state require reporting directly to CARB or contract out to an "emissions" and/or "climate" reporting organization?*

Response:

5 – It is our understanding that the SB 253 text stipulates that an emissions reporting organization is required. With that said, IDFA does not understand the rationale for providing reports to a third party when the reports could be submitted directly to CARB; however, we respect that the state's Legislators may have intentions of which we are not aware. IDFA suggests CARB issue a statement explaining the rationale for involving (and paying) a third party "emissions reporting organization," and provide transparency about the requirements and selection criteria for such an organization.

IDFA also understands that SB 253 calls for contracting with a third party, such as a state university or national laboratory, to prepare a summary report of the corporate emissions disclosures. Since the law requires corporate emissions disclosures that are not specific to the state of California, we question how such a report will determine California-specific climate-related impacts, and therefore the overall utility of such a report.

Question 6: *If contracting out for reporting services, are there non-profits or private companies that already provide these services?*

Response:

6 – IDFA recommends considering an existing voluntary disclosure framework organization, such as CDP, to manage the reporting if businesses are not able to report directly to CARB. Many of our member companies and their customers are already engaged with voluntary CDP reporting. **We estimate that a large portion of reporting entities regulated by SB 253 and SB 261 will already be familiar with the CDP reporting cadence and format.**[15]

Question 7: *Entities must measure and report their emissions of greenhouse gases in conformance with the GHG Protocol, which allows for flexibility in some areas (i.e., boundary setting, apportioning emissions in multiple ownerships, GHGs subject to reporting, reporting by sector vs business unit, or others). Are there specific aspects of scopes 1, 2, or 3 reporting that CARB should consider standardizing?*

Response:

7 – CARB should not standardize its own aspects of accounting methods apart from clarifying how to account for GHG accounting overlap between corporate footprints and existing California or CARB regulatory program inventories. IDFA has thoroughly investigated this accounting overlap challenge in the context of California's LCFS program and would like to work closely with CARB to develop a solution that does not hinder investment in associated emissions management systems, which are clearly beneficial to California stakeholders.

The more CARB standardizes around this state-specific climate disclosure program, the more likely it will lead to misalignment between California requirements and evolving global standards, all while increasing the administrative burden of duplicative disclosure preparation exercises.

IDFA recommends CARB defer to individual industries/sectors in cases where existing standards (i.e., GHG Protocol and TCFD/IFRS S2) are not sufficiently detailed or prescriptive. The dairy industry is currently investing in consulting services to help establish best practice guidance about how to account for carbon

[15] CDP: Turning Transparency to Action.

emissions across our highly complex commodity value chain. The purpose of this investment is to generate industry-specific guidance that aligns with and supplements GHG Protocol framework.

Question 8: *SB 253 requires that reporting entities obtain "assurance providers." An assurance provider is required to be third-party, independent, and have significant experience in measuring, analyzing, reporting, or attesting in accordance with professional standards and applicable legal and regulatory requirements.*

Response:

8(a) – In response to third-party verification and assurance providers, IDFA is aware of several. IDFA recommends that CARB refer to the *Verdantix Buyer's Guide for ESG Assurance Providers* (2022).[16]

IDFA also suggests that CARB consider the assurance cost burden associated with SB 253 and SB 261, especially for small and medium sized enterprises (SMEs). It would be pragmatic for CARB to construct a process for vetted service providers to get themselves listed on a CARB website to assist reporting entities that have never previously been required to demonstrate assurance on non-financial disclosures. However, companies should have discretion to select any such service provider, not only organizations known or recognized by CARB.

8(b) – It is very important that CARB clearly define third-party audit and assurance engagement definitions. Following our response to question 3(b) above, IDFA reiterates that alignment of climate-related disclosure program requirements across jurisdictions is important to prevent undue administrative burdens for reporting entities.

It would behoove CARB to research and consider definitions for "limited" and "reasonable" assurance that are already referred to in existing sustainability (i.e., non-financial) disclosure programs. For example, the International Auditing and Assurance Standards Board (IAASB) publishes the International Standard on Sustainability Assurance 5000 (ISSA 5000), which includes assurance level definitions.[17] It would be pragmatic to discuss this in more depth with key stakeholders, especially assurance service providers.

IDFA recommends against adopting the "reasonable assurance" definition currently used under California's Mandatory [GHG] Reporting Regulation ("MRR"). A state-specific definition may differ from preexisting climate-related disclosure assurance norms, and, since it is likely that other U.S. states will establish similar disclosure mandates in the future, adopting a prevailing international standard can help avoid a future patchwork of slightly nuanced state-level definitions.

Question 9: *How should voluntary emissions reporting inform CARB's approach to implementing SB 253 requirements? For those parties currently reporting scopes 1 and 2 emissions on a voluntary basis:*

9(a) What frequency (annual or other) and time period (1 year or more) are currently used for reporting?

9(b) When are data available from the prior year to support reporting?

Response:

9(a) – Our members indicate that following the reporting timeline required by CDP is appropriate. To acknowledge the unique challenges amongst reporting entities and the reality that some companies have never prepared even scope 1 and 2 reports previously, IDFA recommends a grace period for annual

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[16] See: https://www.verdantix.com/report/buyer-s-guide-esg-assurance-services-2022
[17] https://www.iaasb.org/publications/international-standard-sustainability-assurance-5000-general-requirements-sustainability-assurance

reporting deadlines of 12 months following the close of a reporting entity's most recent fiscal year. Recall, companies in our industry (and other consumer goods and commodity sectors) will have to comply with California's climate-related disclosures by seeking data from small and medium-sized enterprises, including farms. **Unregulated supply chain partners may cause significant delays for regulated reporting entities.**

9(b) – To the best of our knowledge, it can take several months after a fiscal year or reporting period closes before data are available to be shared amongst supply chain partners.

Question 10: *For SB 261, if the data needed to develop each biennial report are the prior year's data, what is the appropriate timeframe within a reporting year to ensure data are available, reporting is complete, and the necessary assurance review is completed?*

Response:

10 – Similar to question 9, IDFA suggests at least 12 months after any given company's fiscal year ends for a California reporting deadline. This is intended to assist companies that are new to TCFD-style disclosure preparation for SB 261. We agree that annual SB 261 reporting would not add value (biennial frequency is appropriate), as are parent company climate-related financial risk disclosures.

Question 11: *Should CARB require a standardized reporting year (i.e., 2027, 2029, 2031, etc.), or allow for reporting any time in a two-year period (2026-2027, 2028-2029, etc.)?*

Response:

11 – CARB should allow for reporting at any time in a two-year period to accommodate all unique fiscal years, degrees of supply chain readiness, data processing, and auditing timelines.

Question 12: *SB 261 requires entities to prepare a climate-related financial risk report biennially. What, if any, disclosures should be required by an entity that qualifies as a reporting entity (because it exceeds the revenue threshold) for the first time during the two years before a reporting year?*

Response:

12 – CARB should not require any disclosure during this initial time period to allow a first time reporter to first evaluate TCFD-related risks and then prepare their disclosures. This process is time consuming and resource intense, involving evaluation of options for external partner(s) and contracting an advisory firm. Companies must build new internal processes, governance, and ensure they have the right people (as well as data) to meet climate-related disclosure needs, all while operating a business. Any interim disclosure requirement will only prolong the process of meeting SB 261 expectations.

IDFA recommends the option of a reporting entity voluntarily providing their most recent (pre-existing) sustainability report or a letter of intent outlining their SB 261 (climate-related financial risk) strategy.

Question 13: *Many entities that are potentially subject to reporting requirements under SB 261 are already providing other types of climate financial risk disclosures.*

(a) What other types of existing climate financial risk disclosures are entities already preparing?

(c) In what areas, if any, is current reporting typically different than the guidance provided by the Final Report of Recommendations of the Task Force on Climate related Financial Disclosures?

Response:

13(a) – As noted above, some IDFA members may be preparing climate-related financial risk disclosures to comply with the EU CSRD program, but we know that at least New Zealand, Australia, the United Kingdom, and Japan all have or will have similar reporting mandates. These programs are typically informed by TCFD recommendations; however, we see that not all global reporting regimes refer to TCFD, some already refer to and will align with ISSB standards, specifically IFRS "S2."

13(c) – Our members also want to ensure that CARB is aware of TCFD recommendation changes that have occurred since SB 261 was written. IDFA recommends that CARB reference the IFRS guidance on the comparison of TCFD and IFRS "S2."[18] CARB should also review CDP and Global Reporting Initiative (GRI) guidance on framework alignment.[19]

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Thank you for your consideration of our industry's views on the importance of pragmatic climate disclosure program design. IDFA understands the motivations and intentions behind these statutes, and many IDFA member companies support climate-related disclosures. However, we also know that onerous regulatory program design presents risks because of the immature state of scope 3 accounting across many industries and the inevitable impact on non-regulated business operations.

For emissions reporting to be meaningful, data must be widely available with a minimum level of accuracy and reliability that is not yet feasible. It is also little understood that a direct comparison of corporate emissions reports is very risky because of the flexibility afforded by the GHG Protocol standards.[20] We hope that CARB takes this into consideration when designing its regulatory program and making decisions about aggregate or summary reports based on corporate disclosures. Importantly, we urge CARB to avoid any reporting requirements that could stall climate mitigation investment or interfere with our members' preexisting initiatives.

Please direct inquiries and meeting requests to Mike Aquino, maquino@idfa.org.

Sincerely,

M. Aquino

Mike Aquino
Director, ESG
International Dairy Foods Association (Washington, DC)

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[18] See: https://www.ifrs.org/content/dam/ifrs/supporting-implementation/ifrs-s2/ifrs-s2-comparison-tcfd.pdf (November 2024).

[19] See: https://www.cdp.net/en/about/framework-alignment and https://www.globalreporting.org/how-to-use-the-gri-standards/global-alignment/.

[20] Please see: https://ghgprotocol.org/corporate-value-chain-scope-3-standard. In these FAQs, GHG Protocol states, "The Corporate Value Chain (Scope 3) Standard is designed to enable comparisons of an individual company's GHG emissions over time. It is not designed to support comparisons between companies. Differences in reported emissions may be a result of differences in inventory methodology, company size or structure. Additional measures are necessary to enable valid comparisons across companies, such as consistency in methodology, consistency in data used to calculate the inventory, and reporting of intensity ratios or performance metrics."